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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: WC Docket No. 03-157

In the Matter of Petition for Forbearance From the Current
Pricing Rules for the Unbundled Network Element Platform

Dear Ms. Dortch:

Enclosed for filing please find an original and four copies of a corrected version of pages 3, 5 and 6 to the UNE Fact Report, Attachment B, of Verizon's Petition for Expedited Forbearance filed on July 1, 2003 in the above-referenced docketed proceeding. The corrected information is indicated in bold type

Please do not hesitate to contact me at (703) 351-3193 should you have any questions.

Respectfully submitted,

Karen Zacharia

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finding.⁷ The PSC nonetheless initiated a new pricing proceeding in January 1999.⁸ In May 2001, the administrative law judge overseeing the proceeding issued a recommended decision to establish new, significantly lower rates.⁹ In January 2002, the PSC issued a UNE Order establishing final permanent rates.¹⁰ The PSC reduced the statewide average loop rate to \$11.49 and reduced the switching rates to \$0.001147 per originating minute and \$0.001111 per terminating minute.

| New York UNE Rates | | | |
|--|-------------------------------|-----------------------------------|-------------|
| | April 1997 | January 2002 | % reduction |
| 2-wire analog loop (statewide average) | \$14.52 | \$11.49 | -21% |
| Local switching | \$0.003150 (average rate/min) | \$0.001147 (originating rate/min) | -64% |

New Jersey The New Jersey BPU initially established UNE rates in December 1997 that it found were TELRIC-compliant.¹¹ The BPU established a statewide average loop rate of \$16.21 and a switching rate of \$0.005418 per originating minute and \$0.003207 per terminating minute. In June 2000, the BPU opened a new pricing proceeding. In **December** 2001, the BPU adopted new, significantly lower UNE rates.¹² The BPU adopted a statewide average loop rate of \$9.52 and a switching rate of \$0.002773 per originating minute and \$0.002508 per terminating

⁷ See *AT&T Corp. v. FCC*, 220 F.3d 607, 617 (D.C. Cir. 2000).

⁸ See *Joint Complaint of AT&T Communications of New York, Inc., MCI Telecommunications Corporation, WorldCom, Inc., d/b/a LDDS WorldCom, and the Empire Association of Long Distance Telephone Companies, Inc. Against New York Telephone Company Concerning Wholesale Provisioning of Local Exchange Service by New York Telephone Company and Sections of New York Telephone Company's Tariff No. 900*, Order Denying Motion to Reopen Phase I and Instituting New Proceeding at 12, 95-C-0657, 94-C-0095, 91-C-1174 & Case 98-C-1357 (NY PSC Sept. 30, 1998).

⁹ See *Proceeding on Motion of the Commission To Examine New York Telephone Company's Rates for Unbundled Network Elements*, Recommended Decision on Module 3 Issues by Administrative Law Judge Joel A. Linsider, Case 98-C-1357 (NY PSC May 16, 2001).

¹⁰ See *Proceeding on Motion of the Commission To Examine New York Telephone Company's Rates for Unbundled Network Elements*, Order on Unbundled Network Element Rates, Case 98-C-1357 (NY PSC Jan. 28, 2002).

¹¹ See *Investigation Regarding Local Exchange Competition for Telecommunications Services*, Order Regarding Interconnection and Resale, Docket No. TX95120631 (NJ BPU Dec. 2, 1997), *id.* at 9 ("[T]he parties to this phase of this proceeding agree the proper basis for setting rates for interconnection and unbundled elements contemplates the use of a long-run incremental cost methodology. [Therefore] the Board **HEREBY ADOPTS** the principles upon which the FCC's TELRIC model is based"). AT&T and WorldCom appealed the rates set by the New Jersey BPU. See *AT&T Communications v. New Jersey, Inc. v. Bell Atlantic-New Jersey, Inc.*, Nos. 97-5762 & 98-0109 Slip. op. (D.N.J. June 6, 2000). The court remanded the BPU's decision on the ground that it had not provided sufficient explanation for the cost model it adopted, but did not reach the question whether the actual rates set by the BPU complied with TELRIC. See *id.* at 27-28, 31.

¹² See *Review of Unbundled Network Element Rates, Terms and Conditions of Bell Atlantic New Jersey, Inc.* Board Meeting Transcript, Docket No. 1000060356 (NJ BPU Nov. 20, 2001), *Review of Unbundled Network Elements Rates, Terms and Conditions of Bell Atlantic New Jersey*, Summary Order of Approval, Docket No. 1000060356 (NJ BPU Dec. 17, 2001).

| Pennsylvania UNE Rates | | | |
|--|-------------|----------------|-------------|
| | August 1997 | September 1999 | % reduction |
| 2-wire analog loop (statewide average) | \$16.78 | \$13.81* | -18% |
| Local switching (originating per-minute rate) | \$0.011067 | \$0.001802 | -84% |

* The \$13.81 loop rate in Pennsylvania became effective May 2001.

Massachusetts. The Massachusetts DTE set initial rates for UNEs in 1997.¹⁹ The DTE set a statewide average loop rate of \$14.98 and an average switching rate of **\$0.007503** per minute.²⁰ In March 1999, the DTE found that the rates it established were TELRIC-compliant.²¹ In November 2000, while Verizon's section 271 application for Massachusetts was pending before the FCC, Verizon had to reduce the switching rates in Massachusetts to **an average switching rate of \$0.003637** in order to satisfy the FCC's benchmark test.²² The FCC found those rates TELRIC-compliant in April 2001.²³ The D.C. Circuit subsequently upheld that determination.²⁴ In June 2002, Verizon was required during an FCC complaint proceeding to reduce the switching rates in Massachusetts further in order to satisfy a new benchmark based on newly adopted rates in New York.²⁵ In June 2003, the DTE completed a second-generation proceeding in which it adopted new rates.²⁶ Pursuant to that decision, the new statewide average

¹⁹ See Consolidated Petitions of New England Telephone Company d/b/a NYNEX, Teleport Communications Group, Inc., Brooks Fiber Communications, AT&T Communications of New England, Inc., MCI Communications Company, and Sprint Communications Company, L.P., Pursuant to Section 252(b) of the Telecommunications Act of 1996, for Arbitration of Interconnection Agreements Between NYNEX and the aforementioned Companies, Order DPU 96-73/74, 96-75, 96-80/81, 96-83, 96-94 (Phase 4-D) (MA DPU June 27, 1997).

²⁰ The rate is a weighted average of peak-metro, peak-other, and off-peak rates of \$0.004647, \$0.004724, and \$0.001872, respectively.

²¹ See Investigation by the Department on Its Own Motion into the Propriety of the Resale Tariff of New England Telephone and Telegraph Company d/b/a Bell Atlantic-Massachusetts, Filed with the Department on January 16, 1998, To Become Effective February 14, 1998, Order at 16, DTE 98-15 (Phases II, III) (MA DTE Mar 19, 1999) ("[T]he Department finds that it correctly applied the FCC's avoided cost and TELRIC methods in Consolidated Arbitrations").

²² See Reply Declaration of Steven E. Collins ¶¶ 4-5, Application by Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), and Verizon Global Networks Inc., for Authorization To Provide In-Region, InterLATA Services in Massachusetts, CC Docket No. 00-176 (FCC filed Nov. 3, 2000).

²³ See Application of Verizon New England Inc. et al., For Authorization to Provide In-Region, InterLATA Services in Massachusetts, Memorandum Opinion and Order 16 FCC Rcd 8988 ¶ 20 (2001).

²⁴ See *WorldCom, Inc. v. FCC*, 308 F.3d 1 (D.C. Cir. 2002).

²⁵ See *WorldCom, Inc., Complainant, v. Verizon New England, Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprises Solutions), and Verizon Global Networks, Inc., Defendants*, Memorandum Opinion and Order, 17 FCC Rcd 15115, ¶ 13 (2002).

²⁶ See Investigation by the Department of Telecommunications and Energy on Its Own Motion into the Appropriate Pricing, Based upon Total Element Long-Run Incremental Costs, for Unbundled Network Elements and Combinations of Unbundled Network Elements, and the Appropriate Avoided Cost Discount for Verizon New England, Inc. d/b/a Verizon Massachusetts Resale Services in the Commonwealth of Massachusetts, Order, DTE

loop rate in Massachusetts is **\$13.93** and the new switching rate is \$0.000825 per originating minute and \$0.000724 per terminating minute

| Massachusetts UNE Rates | | | |
|--|----------------------------------|--------------------------------------|-------------|
| | November 2000 | June 2003 | % reduction |
| 2-wire analog loop (statewide average) | \$14.98* | \$13.99 | -7% |
| Local switching | \$0.003637 (average rate/min) | \$0.000825 (originating rate/min) | -79% |

* The loop rate was set earlier in March 1999

Florida The Florida PSC initially established wholesale UNE rates for Verizon in January 1997 in an arbitration proceeding involving AT&T.²⁷ The PSC established a statewide average loop rate of \$20.00 and a switching rate of \$0.004000 per originating minute and \$0.003750 per terminating minute. In May 1999, the PSC initiated a proceeding to establish new rates. In November 2002, the PSC issued an order adopting new rates.²⁸ It reduced the statewide average loop rate to \$17.07 and reduced the switching rate to \$0.002257 per originating and terminating minute.²⁹

| Florida UNE Rates | | | |
|---|--------------|---------------|-------------|
| | January 1997 | November 2002 | % reduction |
| 2-wire analog loop (statewide average) | \$20.00 | \$17.07 | -15% |
| Local switching (originating per-minute rate) | \$0.004000 | \$0.002257 | -44% |

2. There are two additional states in Verizon's region – Maine and the District of Columbia – that completed their initial pricing proceedings late relative to other states. These states have adopted rates that are significantly below the rates that were effective in the interim while these proceedings were pending.

01-20 (MA DTF July 11, 2002), *Investigation by the Department of Telecommunications and Energy on Its Own Motion into the Appropriate Pricing, Based upon Total Element Long-Run Incremental Costs, for Unbundled Network Elements and Combinations of Unbundled Network Elements, and the Appropriate Avoided Cost Discount for Verizon New England, Inc. d/b/a Verizon Massachusetts Resale Services in the Commonwealth of Massachusetts*, Order Granting Verizon and AT&T Motions for Reconsideration, in Part, and Requesting Additional Evidence, DTL 01-20 (MA DTF Sept. 24, 2002).

²⁷ See *Petitions by AT&T Communications of the Southern States, Inc., MCI Telecommunications Corporation and MCI Metro Access Transmission Services, Inc., for Arbitration of Certain Terms and Conditions of a Proposed Agreement with GTE Florida Incorporated Concerning Interconnection and Resale under the Telecommunications Act of 1996*, Final Order on Arbitration, Docket Nos. 960847-TP, 960980-TP, Order No. PSC-97-0064-FOI-IP (FL PSC Jan. 17, 1997).

²⁸ See *Investigation into Pricing of Unbundled Network Elements (Sprint/Verizon Track)*, Final Order on Rates for Unbundled Network Elements Provided by Verizon Florida, Docket No. 990649B-TP, Order No. PSC-02-1574-FOI-IP (FL PSC Nov. 15, 2002).

²⁹ Those rates have been stayed pending Verizon's appeal to the Florida Supreme Court.